

No. P.3/62-Poll(Spl)  
Government of India  
Ministry of Home Affairs

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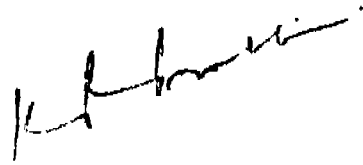
New Delhi-11, the 28th November, 1962.  
73rd Amendment, 1964.

CORRIGENDA

G.S.R..... In the notification of the Government of India in the Ministry of Home Affairs, G.S.R.No.1593/P.3/62-Poll(Spl) dated the 24th November, 1962, published at pages 685 to 695 of the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), dated the 24th November, 1962, -  
Aggravated 3, 1964

1. At page 685, last line, for 'such period' read 'such period as'.
2. At page 686,-
  - (i) rule 133-A, line 13, for 'persons' read 'persons,'.
  - (ii) rule 133-B, line 1, for 'for' read 'For'.
3. At page 688, rule 133-I,-
  - (i) line 3, for 'possess' read 'possesses'.
  - (ii) line 30, for 'subject.' read 'subject;,'.
  - (iii) line 42, for '133-V.' read '133-V;,'.
4. At page 689, rule 133-K, line 3, for 'Enemy Firms.' read 'Enemy Firms,'.
5. At page 691, rule 133-S, line 5, for 'extent to six month' read 'extend to six months'.
6. At page 692, rule 133-V(1), line 20, for 'rights' read 'right'.
7. At page 693, rule 133-V(6), line 4, for 'extended' read 'extend'.
8. At page 694,-
  - (i) rule 133-W(5), line 2, for 'supervisor' read 'Supervisor'.
  - (ii) rule 133-W(7), lines 4 and 7, for 'supervisor' read 'Supervisor'.
  - (iii) rule 133-W(8), line 1, for 'respect' read 'respects'.

9. At page 695, line 12, for 'letters'  
read 'letters'.

A handwritten signature in black ink, appearing to read 'K.R. Prabhu', written in a cursive style.

(K.R. Prabhu)  
Deputy Secretary to the Government of India.

# The Gazette of India



EXTRAORDINARY

PART II—Section 3—Sub-section (i)

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## MINISTRY OF HOME AFFAIRS

### NOTIFICATION

New Delhi, the 24th November 1962

THE DEFENCE OF INDIA (AMENDMENT) RULES, 1962

**G.S.R. 1593.**—In exercise of the powers conferred by section 3 of the Defence of India Ordinance, 1962 (4 of 1962), the Central Government hereby makes the following rules to amend the Defence of India Rules, 1962 (published with the Notification of the Government of India in the Ministry of Home Affairs No. G.S.R. 1465, dated the 5th November, 1962), namely:—

1. These Rules may be called the Defence of India (Amendment) Rules, 1962.
2. After rule 88 of the Defence of India Rules, 1962 (hereinafter referred to as the said rules), the following rule shall be inserted, namely:—

**"88-A. Power to appoint special police officers.**—(1) A District Magistrate, a Sub-Divisional Magistrate, any police officer not below the rank of Deputy Superintendent, or any other officer of Government authorised in this behalf by the State Government may, by order, appoint persons to act as special police officers for such time and within such limits as may be specified in the order; and every person so appointed shall have the same powers, privileges and protection, shall be liable to perform the same duties and subject to the same disciplinary measures, and shall be subordinate to the same authorities as the ordinary officers of police within those limits.

- (2) If any person, being appointed a special police officer as aforesaid, neglects or refuses, without sufficient excuse, to serve as such or to obey such lawful orders or directions as may be given to him for the performance of his duties, or withdraws from the duties of his office without permission, he shall be punishable with imprisonment for a term which may extend to three months, or with fine not exceeding one hundred rupees, or with both".

3. For clause (iii) of rule 111 of the said rules, the following clause shall be substituted, namely:—

**"(iii) an amount for the loss of the use of the property or of any profits that might have been earned but for the requisition, at such percentage, not being less than 3 per cent per annum, as may be prescribed by the Government, of the cost referred to in (i) above as reduced by depreciation calculated at the same rate as for (ii) above in such manner and for such period may be so prescribed";**

4. In rule 112 of the said rules, the fourth proviso, namely, "Provided also that the compensation payable under this rule shall not exceed the maximum price of the property fixed by order under any law for the time being in force", shall be omitted.

5. After rule 133, the following Parts shall be inserted, namely:—

#### "PART XIV A

##### CONTROL OF TRADING WITH ENEMY

**133-A. Definition.**—For the purposes of this Part, the expression "enemy" means—

- (a) any person or country committing external aggression against India, or
- (b) any individual resident in enemy territory, or
- (c) any body of persons constituted or incorporated in enemy territory, or in, or under the laws of, a State which has committed external aggression against India, or
- (d) any body of persons, whether incorporated or not, carrying on business in any place, if and so long as the body is controlled by a person who, under this rule, is an enemy, or
- (e) as respects any business carried on in enemy territory, any individual or body of persons whether incorporated or not, carrying on that business, or
- (f) any person to whom the Registration of Foreigners Act, 1939, and the Foreigners Act, 1946, apply by virtue of section 2 of the Foreigners Law (Application and Amendment) Act, 1962, and who is either—
  - (i) arrested under the Foreigners (Internment) Order, 1962; or
  - (ii) declared by the Central Government to be an enemy, or
- (g) any other person or body of persons declared by the Central Government to be an enemy on the ground that such person or body of persons is engaged in any financial, contractual, commercial or other intercourse or dealings with any country, person or body of persons referred to in clauses (a) to (e) of this rule.

**133-B. Prohibition of trading with the enemy.**—(1) for the purposes of this Part, a person shall be deemed to have traded with the enemy if he has had any commercial, financial or other intercourse or dealings with, or for the benefit of, an enemy, and, in particular, but without prejudice to the generality of the foregoing provision, if he has—

- (i) supplied any goods to or for the benefit of an enemy, or obtained any goods from an enemy or traded in, or carried, any goods consigned to or from an enemy or destined for or coming from enemy territory, or
- (ii) paid or transmitted any money, negotiable instrument or security for money to or for the benefit of an enemy or to a place in enemy territory, or
- (iii) performed any obligation to, or ~~discharged~~ any obligation of, an enemy, whether the obligation was undertaken before or after the commencement of the Ordinance:

Provided that a person shall not be deemed to have traded with the enemy by reason only that he has—

- (a) done anything under an authority given generally or specially by, or by any person authorised in that behalf by, the Central Government, or
- (b) received payment from an enemy of a sum of money due in respect of a transaction under which all obligations on the part of the person receiving payment had already been performed when payment was received and had been performed at a time when the person from whom the payment was received was not an enemy.

(2) Any reference in this rule to an enemy shall be construed as including a reference to a person acting on behalf of an enemy.

(3) Any person who trades with the enemy shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both.

(4) In any proceedings for an offence of trading with the enemy, the fact that any document has been despatched addressed to a person in enemy territory shall, unless the contrary is proved, be evidence, as against any person who was a party to the despatch of the document, that the person to whom the document was despatched was an enemy.

**133-C. Control of rights, etc., in respect of trading with the enemy.**—No transaction which constitutes an offence of trading with the enemy shall, except to such extent as the Central Government may by general or special order regulate, be effective so as to confer any rights or remedies on the parties to such transaction or on any persons claiming under them.

**133-D. Power to appoint Controllers, etc., of Enemy Trading.**—The Central Government may, either generally or for any particular area, appoint one or more Controllers, Deputy Controllers and Inspectors, of Enemy Trading, for securing compliance with the provisions of this Part, and may, by general or special order, provide for the distribution and allocation of the work to be performed by them under these Rules.

**133-E. Powers of the Controllers, etc., of Enemy Trading.**—(1) If a Controller, or Deputy Controller, of Enemy Trading has reasonable cause to believe that an offence punishable under rule 133-B has been, or is likely to be, committed, he may—

- (a) inspect or cause to be inspected any books or documents belonging to, or under the control of, any person,
- (b) order any person to give such information in his possession with respect to any business carried on by that or any other person as the Controller or Deputy Controller, as the case may be, may demand, and for the purposes aforesaid, may—
  - (i) enter and search, or authorise a police officer not below the rank of Sub-Inspector to enter and search, any premises used for the purposes of the said business,
  - (ii) summon any person, examine him on oath, reduce his answers to writing and require him to sign the writing, and
  - (iii) if any person so summoned fails to appear at the time appointed, cause him to be apprehended by a police officer and brought before him for examination.

(2) A Controller, or Deputy Controller, of Enemy Trading may by order in writing delegate his powers in any particular case to an Inspector of Enemy Trading.

**133-F. Supervision of suspected business.**—If in order to secure compliance with the provisions of this Part the Central Government considers it expedient so to do, it may by order direct that the business of any person (hereinafter referred to as the suspected person) shall be subjected to supervision; and, thereupon a Controller of Enemy Trading and any person authorised by a Controller in this behalf shall have in relation to that business—

- (a) all the powers mentioned in rule 133-E,
- (b) the power to prohibit or regulate by means of written instructions to the suspected person or his agents or employees any transactions or class of transactions of that person, and
- (c) such other powers as may from time to time be conferred on him by the Central Government.

**133-G. Penalty for failure to comply with orders of Controllers, etc.**—If any person contravenes any order lawfully given by any Controller, Deputy Controller, or Inspector, of Enemy Trading, or any person authorised by a Controller under rule 133-F, that person shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**133-H. Penalty for concealment destruction, etc., of books or documents.**—If any person with intent to evade the provisions of this Part conceals, destroys, mutilates, or defaces any book or other document, that person shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

## PART XIV B

## CONTROL OF ENEMY FIRMS

## 133-I. Definitions.—In this Part—

## (1) "Enemy subject" means—

- (a) any individual who possess<sup>es</sup> the nationality of a State which has committed external aggression against India, or having possessed such nationality at any time has lost it without acquiring another nationality, or
- (b) any body of persons constituted or incorporated in or under the laws of such State;

## (2) "enemy firm" means—

- (a) any enemy subject who is, or at any time subsequent to the 25th October, 1962, was carrying on any business in India, or
- (b) any firm, whether constituted in India or not, of which any member or officer is, or at any time subsequent to the 25th October, 1962, was an enemy subject, and which is, or at any time subsequent to the 25th October, 1962, was carrying on business in India, or
- (c) any company, whether incorporated in India or not, of which any officer is, or at any time subsequent to the 25th October, 1962, was an enemy subject, and which is, or at any time subsequent to the 25th October, 1962, was carrying on business in India, or
- (d) any person or body of persons, whether incorporated ~~or not~~, who or which in the opinion of the Central Government is, or at any time subsequent to the 25th October 1962, was carrying on business in India—
- (i) under the control whether direct or indirect of any enemy subject, or
- (ii) wholly or mainly for the benefit of enemy subjects generally or any class of enemy subjects or any individual enemy subject,
- (3) "enemy currency" means any such note or coins as circulate as currency in any enemy territory or any such other notes or coins as are for the time being declared by an order of the Central Government to be enemy currency;
- (4) "enemy property" means any property for the time being belonging to or held or managed on behalf of an enemy as defined in rule 133-A, an enemy subject or an enemy firm:

Provided that where an individual enemy subject dies in India any property which, immediately before his death, belonged to or was held by him, or was managed on his behalf, may notwithstanding his death continue to be regarded as enemy property for the purposes of rule 133-V, -1.

- (5) "securities" includes shares, stock, bonds, debentures and debenture stock, but does not include bills of exchange.

## 133-J. Prohibition of trade with enemy firms and purchase of enemy currency.—(1) No person shall, directly or indirectly—

- (a) advance money to, or enter into any contract with, any enemy firm; or
- (b) pay any sum of money to, or for the benefit of, an enemy firm; or
- (c) give any security for the payment of any debt or any other sum of money for the benefit of an enemy firm; or

- (d) act on behalf of an enemy firm in drawing, accepting, paying, presenting for acceptance or payment, negotiating or otherwise dealing with, any negotiable instrument; or
- (e) accept, pay, or otherwise deal with, any negotiable instrument which is held by, or on behalf of, an enemy firm; or
- (f) enter into any new transaction, or complete any transaction already entered into, with an enemy firm in respect of any stocks, shares or other securities; or
- (g) make or enter into any new policy of contract of insurance (including re-insurance) or accept or give effect to any insurance of any risk arising under a policy or contract of insurance (including re-insurance) made or entered into with, or for the benefit of, an enemy firm; or
- (h) supply to, or for the use or benefit of, or obtain from, an enemy firm, any goods, wares or merchandise, or trade in or carry any goods, wares or merchandise destined for an enemy firm; or
- (i) enter into any other commercial or financial obligation or contract with, or for the benefit of, an enemy firm.

(2) In any proceeding arising out of a contravention of clause (e) of sub-rule (1) it shall be a defence for the accused to prove that at the date of the contravention he had no reasonable ground for believing that the negotiable instrument was held by or on behalf of an enemy firm.

(3) No person shall, directly or indirectly, purchase enemy currency.

(4) Nothing in this rule shall be deemed to prohibit anything expressly permitted by or under the authority of the Central Government.

(5) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

**133-K. Power to appoint Controllers, etc., of enemy firms.**—The Central Government may, either generally or for any particular area, appoint one or more Controllers, Deputy Controllers and Inspectors, of Enemy Firms, for securing compliance with the provisions of this Part, and may, by general or special order, provide for the distribution and allocation of the work to be performed by them under these Rules.

**133-L. Powers of Controllers, etc., of enemy firms.**—If a Controller, Deputy Controller or Inspector of Enemy Firms has reasonable cause to believe that an offence punishable under rule 133-J has been, or is likely to be, committed, he may—

- (a) inspect or cause to be inspected any books or documents belonging to, or under the control of any person,
- (b) order any person to give such information in his possession with respect to any business carried on by that or any other person as the Controller, Deputy Controller or Inspector, as the case may be, may demand, and for the purposes aforesaid, may
  - (i) enter on any premises used for the purposes of the business,
  - (ii) summon any person, examine him on oath, reduce his answers to writing and require him to sign the writing,
  - (iii) if any person so summoned fails to appear at the time appointed, cause him to be apprehended by a police officer and brought before him for examination.

**133-M. Supervision of suspected business.**—If it appears to a Controller of Enemy Firms that it is expedient for securing compliance with the provisions of this Part that any business should be subject to supervision, he may by order in writing direct that the business shall be subject to supervision, and thereupon any Controller, Deputy Controller or Inspector of Enemy Firms may for the purposes of such supervision exercise all or any of the powers mentioned in rule 133-L, and such other powers as may from time to time be conferred on him by the Central Government.

**133-N. Supervision of firms suspected to be enemy firms.**—(1) If it appears to a Controller of Enemy Firms that it is expedient for securing compliance with the provisions of this Part that the business of a person or body of persons suspected by him to be an enemy firm should be subject to supervision, he may, pending a decision by the Central Government in the matter, by order in writing direct that the business shall be subject to supervision for a period which shall not, without the previous sanction of the Central Government, exceed one month; and, thereupon, any Controller, Deputy Controller or Inspector, of Enemy Firms may—

- (a) exercise, for the purposes of such supervision, all or any of the powers mentioned in rule 133-L;
- (b) by order in writing cancel any transaction of the firm which, in his opinion, is injurious to the public interest or is intended to evade the provisions of this Part;
- (c) authorise the business of the firm to be carried on under such management as may be approved by him or subject to such conditions as he may deem fit to impose;
- (d) himself carry on the business of the firm, if, in his opinion, no suitable management is available.

(2) Where a business is subjected to supervision under sub-rule (1), the Central Government may direct the Controller to recover from the assets of the firm concerned such fee, not exceeding the cost of supervision, as the Central Government may deem fit to impose.

**133-O. Penalty for failure to comply with orders of Controller, etc.**—If any person contravenes any order lawfully given by any Controller, Deputy Controller, or Inspector, of Enemy Firms, that person shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**133-P. Penalty for concealment, destruction, etc. of books or documents.**—If any person with intent to evade the provisions of this Part conceals, destroys, mutilates or defaces any book or other document which a Controller, Deputy Controller, or Inspector, of Enemy Firms is empowered under rule 133-L or rule 133-M to inspect, that person shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

**133-Q. Contracts with enemy firms.**—Where it appears to the Central Government that a contract entered into, whether before or after the commencement of the Ordinance, with a person or body of persons who at the time of such contract was, or subsequent to such contract became, an enemy as defined in rule 133-A or an enemy subject, or an enemy firm is injurious to the public interest, or was entered into with a view to evade the provisions of this Part, the Central Government may by order cancel or determine such contract either unconditionally or upon such conditions as it thinks fit.

**133-R. Transfer of property to or by enemy firms.**—(1) Where it appears to the Central Government that a transfer of property movable or immovable made, whether before or after the commencement of the Ordinance, to or by a person or body of persons who at the time of such transfer was, or subsequent to such transfer became, an enemy as defined in rule 133-A or an enemy subject or an enemy firm is injurious to the public interest or was made with a view to evade the provisions of this Part, the Central Government may, by order, declare such transfer, and any subsequent transfer or sub-transfer of the same property or part thereof, to be void, either in whole or in part, or may impose such conditions on the transferee as it thinks fit.

(2) On the making of an order under sub-rule (1) declaring any transfer, subsequent transfer or sub-transfer of any property to be void, that property shall, with effect from the date of the order, be deemed to be revested in the original transferor.

**133-S. Transfer and allotment of securities to or by enemy firms.**—(1) If any securities are transferred by, or allotted or transferred to, an enemy firm, then, except with the sanction of the Central Government, the transferee or allottee shall not by virtue of the transfer or allotment have any rights or remedies in respect of the securities; and no body corporate by which the securities were issued, or are managed, shall take cognizance of, or otherwise act upon, any such transfer except under the written authority of the Central Government.



(2) No share warrants, stock certificates or bonds shall be issued, payable to bearer, in respect of securities registered or inscribed in the name of an enemy firm or of a person acting on behalf, or for the benefit, of an enemy firm.

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**133-T. Transfer of negotiable instruments and actionable claims by enemy firms.**—(1) No transfer of a negotiable instrument or an actionable claim by or on behalf of an enemy firm nor any subsequent transfer thereof shall, except with the sanction of the Central Government, be effective so as to confer any rights or remedies in respect of the negotiable instrument or, as the case may be, the actionable claim.

(2) If any person by payment or otherwise purports to discharge any liability from which he is relieved by sub-rule (1) knowing the facts by virtue of which he is so relieved, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both:

Provided that in any proceedings in pursuance of this sub-rule it shall be a defence for the accused to prove that at the time when he purported to discharge the liability in question he had reasonable grounds for believing that the liability was enforceable against him by order of a competent court, not being a court in India or in a State committing external aggression against India, and would be enforced against him by such an order.

(3) Where a claim in respect of a negotiable instrument or an actionable claim is made against any person who has reasonable cause to believe that, if he satisfied the claim, he would thereby be committing an offence punishable under sub-rule (2), that person may pay into a competent civil court any sum which but for the provisions of ~~sub-rule~~ (1) would be due in respect of the claim and thereupon the payment shall for all purposes be a good discharge to that person.

**133-U. Power to carry on business of enemy firm.**—(1) Where it appears to the Central Government that the control or management of an enemy firm has been, or is likely to be, so affected by external aggression as to prejudice the effective continuance of its trade or business, and that it is in the public interest that the trade or business should continue to be carried on, the Central Government may by order authorise a person to carry on the trade or business in such manner and to such extent as may be prescribed.

(2) While a person authorised under sub-rule (1) is carrying on the trade or business of any enemy firm,—

- (a) such person shall be deemed to be acting as the agent of the firm and, subject only to such restrictions as the Central Government may impose, shall have in relation to the management of the affairs of the firm all such powers and authority as the firm itself would have if it were not an enemy firm, provided that any person having any commercial, financial or other intercourse or dealings with such person while so acting, shall not, ~~merely~~ by reason of such intercourse or dealings, be deemed to have contravened the provisions of rule 133-B or rule 133-J;
- (b) such person shall be entitled to the management of the affairs of the firm to the exclusion of any other person acting or purporting to act on behalf of the firm, and for the purposes of such management shall be entitled to employ such staff or other agency as he thinks fit;
- (c) such person shall not, in respect of such matters relating to the said management as may be specified by order of the Central Government be bound by any obligation or limitation imposed on him as agent of the firm by or under any law, instrument or contract;
- (d) such person shall be entitled to retain out of the assets of the firm all costs, charges and expenses of, or incidental to the said management, and such remuneration as may be prescribed; and
- (e) the firm shall not have the right to control the carrying on of the trade or business.

(3) No person authorised under sub-rule (1) to carry on the trade or business of an enemy firm shall be personally liable for acts done by him in good faith in the course of management of such trade or business.

(4) The provisions of this rule shall apply also in relation to a body of persons, whether incorporated or not, which is an enemy as defined in rule 133-A and which is, or at any time subsequent to the 25th of October, 1962, was carrying on business in India, as they apply in relation to an enemy firm.

**133-V. Collection of debts of enemy firm and custody of property.**—(1) With a view to preventing the payment of moneys to an enemy firm and preserving enemy property, the Central Government may appoint a Custodian of Enemy Property for India and one or more Deputy Custodians and Assistant Custodians of Enemy Property for such local areas as may be prescribed and may by order—

- (a) require the payment to the prescribed custodian of money which would but for these rules be payable to or for the benefit of an enemy firm; or which would but for the provisions of rule 133-Q and rule 133-T be payable to any other person and upon such payment the said money shall be deemed to be property vested in the prescribed custodian;
- (b) vest, or provide for and regulate the vesting, in the prescribed custodian such enemy property as may be prescribed;
- (c) vest in the prescribed custodian the right to transfer such other enemy property as may be prescribed, being enemy property which has not been, and is not required by the order to be, vested in the custodian;
- (d) confer and impose on the custodian and on any other person such rights, powers, duties and liabilities as may be prescribed as respects—
  - (i) property which has been or is required to be, vested in a custodian by or under the order,
  - (ii) property of which the rights of transfer has been, or is required to be, so vested,
  - (iii) any other enemy property which has not been, and is not required to be, so vested,
  - (iv) money which has been, or is by the order required to be, paid to a custodian;
- (e) require the payment of the prescribed fees to the custodian in respect of such matters as may be prescribed and regulate the collection of and accounting for such fees;
- (f) require any person to furnish to the custodian such returns, accounts and other information and to produce such documents, as the custodian considers necessary for the discharge of his functions under the order;

and any such order may contain such incidental and supplementary provisions as appear to the Central Government to be necessary or expedient for the purposes of the order.

(2) Where any order with respect to any money or property is addressed to any person by a custodian and accompanied by a certificate of the custodian that the money or property is money or property to which an order under sub-rule (1) applies, the certificate shall be evidence of the facts stated therein, and if that person complies with the order of the custodian, he shall not be liable to any suit or other legal proceeding by reason only of such compliance.

(3) Where, in pursuance of an order made under sub-rule (1)—

- (a) any money is paid to a custodian, or
- (b) any property, or the right to transfer any property, is vested in a custodian, or
- (c) an order is given to any person by a custodian in relation to any property which appears to the custodian to be property to which the order under sub-rule (1) applies,

neither the payment, vesting nor order of the custodian nor any proceedings in consequence thereof, shall be invalidated or affected by reason only that at a material time---

(i) some person who was or might have been interested in the money or property, and who was an enemy firm, had died or had ceased to be an enemy firm, or

(ii) some person who was so interested, and who was believed by the custodian to be an enemy firm, was not an enemy firm.

(4) In sub-rules (1), (2) and (3), the expression "custodian" includes a Deputy Custodian of Enemy Property and an Assistant Custodian of Enemy Property and every reference to an enemy firm shall be construed as including a reference to a person who is an enemy as defined in rule 133-A.

(5) Where in pursuance of an order made under sub-rule (1) the assets of a company are vested in the custodian, no proceedings, civil or criminal, shall be instituted under the Companies Act, 1956, against the company or any director, manager or other officer thereof except with the consent in writing of the custodian.

(6) If any person pays any debt or deal with any property to which any order under sub-rule (1) applies otherwise than in accordance with the provisions of the order, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both and the payment or dealing shall be void.

(7) If any person without reasonable cause fails to produce or furnish in accordance with the requirements of an order under sub-rule (1) any document or information which he is required under the order to produce or furnish, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**133-W. Power to control and wind up certain business.**—(1) In this rule "~~enemy~~" means any person or body of persons who is for the time being an enemy as defined in rule 133-A.

(2) Where any business is being carried on in India by, or on behalf of or under the direction of, persons all or any of whom are enemies or enemy subjects or appear to the Central Government to be associated with enemies, the Central Government may, if it thinks it expedient so to do, make—

(a) an order (hereafter in this rule referred to as a "restriction order") prohibiting the carrying on the business either absolutely or except for such purposes and subject to such conditions as may be specified in the order, or

(b) an order (hereafter in this rule referred to as a "winding up order") requiring the business to be wound up;

and the making of a restriction order as respects any business shall not prejudice the power of the Central Government, if it thinks it expedient so to do, at any subsequent date to make a winding up order as respects that business.

(3) Where an order under sub-rule (2) is made as respects any business, the Central Government may, by that or a subsequent order, appoint a Supervisor to control and supervise ~~the carrying out~~ of the order, and, in the case of a winding up order, to conduct the winding up of the business and may confer on the Supervisor any such powers in relation to the business as are exercisable by a liquidator in the voluntary winding up of a company in relation to the company (including power in the name of the person carrying on the business or in his own name and by deed or otherwise, to convey or transfer any property, and power to apply to the court to determine any question arising in the carrying out of the order), and may by the order confer on the Supervisor such other powers as the Central Government thinks necessary or convenient for the purpose of giving full effect to the order.

(4) Where a restriction order or a winding up order is made as respects any business, the distribution of any assets of the business which are distributed while the order is in force shall be made in accordance with the rules as to preferential payments applicable to the distribution of the assets of a company which is being wound up, but subject to such modifications, if any, as the Central Government

may, by a general or special order prescribe in this behalf and the said assets of the business shall, so far as they are available for discharging unsecured debts, be applied in discharging unsecured debts due to creditors of the business who are neither enemies nor enemy subjects in priority to unsecured debts due to any other creditors, and any balance, after providing for the discharge of all liabilities of the business, shall be distributed among the persons interested in the business in such manner as the Central Government may direct:

Provided that the provisions of this sub-rule shall in their application to the distribution of any money or other property which would, in accordance with those provisions, fall to be paid or transferred to an enemy, enemy subject or enemy firm whether as a creditor or otherwise, have effect subject to the provisions of rule 133-V and of any order made under that rule.

(5) Where any business for which a Supervisor has been appointed under this rule has assets in enemy territory, the supervisor shall, if in his opinion it is practicable so to do, cause an estimate to be prepared—

- (a) of the value of those assets;
- (b) of the amount of any liabilities of the business to creditors whether secured or unsecured, who are enemies;
- (c) of the amount of the claims of persons who are enemies to participate, otherwise than as creditors of the business, in any distribution of assets of the business made while an order under sub-rule (2) is in force as respects the business;

and where such an estimate is made, the said liabilities and claims shall, for the purposes of this rule, be deemed to have been satisfied out of the said assets of the business in enemy territory, or to have been satisfied thereout so far as those assets will go, and only the balance (if any) shall rank for satisfaction out of the other assets of the business:

Provided that where the rights of any creditor of, or other person interested in, the business are vested in the Custodian of Enemy Property, nothing in this sub-rule shall affect the rights of the custodian against the assets of the business in India unless such rights have been disclaimed by him.

(6) Where an estimate has been prepared under sub-rule (5), a certificate of the Supervisor as to the value or amount of any assets, claims or liabilities to which the estimate relates shall be conclusive for the purpose of determining the amount of the assets of the business available for discharging the other liabilities of the business and for distribution amongst other persons claiming to be interested in the business:

Provided that nothing in this sub-rule shall affect the rights of creditors of, and other persons interested in, the business against the assets of the business in enemy territory.

(7) The Central Government may, on an application made by a Supervisor appointed under this rule, after considering the application and any objections which may be made by any person who appears to the Central Government to be interested, by order grant the supervisor ~~a release, and an order of the Central Government~~ under this sub-rule shall discharge the Supervisor from all liability in respect of any act done or default made by him in the exercise and performance of his powers and duties as supervisor, but any such order may be revoked by the Central Government on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(8) Where an order under sub-rule (2) has been made as respect a business carried on by any individuals or by a company, no insolvency petition against the individuals, or petition for the winding up of the company, shall be presented, or resolution for the winding up of the company passed, or steps for the enforcement of the rights of any creditors of the individuals or company taken, without the consent of the Central Government, but where the business is carried on by a company, the Central Government may present a petition for the winding up of the company by the court, and the making of an order under sub-rule (2) shall be a ground on which the company may be wound up by the court.

(9) Where an order is made under this rule appointing a Supervisor, for any business, any remuneration of, and any costs, charges and expenses incurred by, the Supervisor, and any other costs, charges and expenses incurred in connection with the control and supervision of the carrying out of the order, shall, to such amount as may be certified by the Central Government, be defrayed out of the assets of the business, and as from the date of the certificate, be charged on those assets in priority to any other charges thereon.

(10) If any person contravenes the provisions of any order made under sub-rule (2), he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or both."

6. In rule 154 of the said rules, in sub-rule (3), for the figures and word "9 and 36", the figures, word and letters, "9, 36, 133-B and 133-J" shall be substituted.

[No. F. 3/62-Poll(Spl.).]

HARI SHARMA, Addl. Secy.

